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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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BS

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 23 2005
WAC 05 046 51442

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

2 Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The alien seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the sciences, arts, or business. The alien seeks employment as an auditor at the Church of Scientology Celebrity Centre International. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the alien is ineligible for the classification sought, because the beneficiary does not work in the sciences, arts, or business. The director also found that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, *affected party* (in addition to the Citizenship and Immigration Services) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

8 C.F.R. § 103.3(a)(2)(v) states that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The alien beneficiary signed Part 8 of the Form I-140 petition. Therefore, the alien beneficiary is the petitioner in this proceeding. A signature on Part 9 of the Form I-140 indicates that [REDACTED] of the Church of Scientology Celebrity Centre International prepared the petition form on the alien's behalf. Ms. [REDACTED] signature on Part 9 of the form does not make her, or her organization, the petitioner in this proceeding. The party who takes legal responsibility for the petition is the party who signs Part 8, not Part 9, of Form I-140.

The petitioner did not sign the Form I-290B Notice of Appeal. Rather, Ms. [REDACTED] signed the appeal form. Thus, the appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the petitioner's intending employer. Therefore, the appeal was not properly filed, and must be rejected.

We note that, even if the appeal had not been rejected, it still would not qualify for consideration on the merits. 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." On the Form I-290B Notice of Appeal, which the director received on May 3, 2005, Ms. [REDACTED] indicated that a brief would be forthcoming within thirty days. Since that time, the only new submissions from Ms. [REDACTED] have been requests for further extensions in 30-day increments, without providing good cause as required by 8 C.F.R. § 103.3(a)(2)(vii). To date, careful review of the record reveals no subsequent submission of any substance. Ms. [REDACTED] statement on the Form I-290B itself reads, in full:

1. Religion is an art and therefore qualifies for national interest waiver.
2. Petitioner demonstrated that beneficiary's work is in the national interest. This was overlooked by the Service Center.
3. A religious worker is statutorily qualified to submit such a petition. The Director of the California Service Center did not properly consider her qualifications.

The above assertions are not arguments. Rather, they are conclusions unsupported by premises. The claim that "religion is an art" is by no means self-evidently true, and therefore this contention, without any logical elaboration, cannot form a valid basis for an appeal. The remaining two assertions amount to little more than the claim that the alien qualifies for the classification and the waiver, and that therefore the director should have approved the petition. Again, without specific arguments to demonstrate exactly how the director erred, these general claims have no weight. Inasmuch as Ms. [REDACTED] has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal would have to be summarily dismissed even if Ms. [REDACTED] had standing to file an appeal in this proceeding (which she does not).

We note that the church had previously filed another petition, with receipt number WAC 01 001 54310, seeking classification to classify the alien as a special immigrant religious worker. The director approved that petition on May 17, 2005. The rejection of the present appeal is without prejudice to any further proceedings that may arise pursuant to the approval of the special immigrant religious worker petition.

ORDER: The appeal is rejected.